

ESTTA Tracking number: **ESTTA625158**

Filing date: **09/04/2014**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91210379
Party	Plaintiff Atlas Brewing Company, LLC
Correspondence Address	LEMA A KHORSHID FUKSA KHORSHID LLC 70 W ERIE FL 2 CHICAGO, IL 60654 UNITED STATES lema@fklawfirm.com, robert@fklawfirm.com
Submission	Plaintiff's Notice of Reliance
Filer's Name	Perry Gattegno
Filer's e-mail	perry@fklawfirm.com
Signature	/perry gattegno/
Date	09/04/2014
Attachments	Notice of Reliance - Official Records.pdf(3221416 bytes )

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Atlas Brewing Company, LLC,	)	
	)	
Opposer,	)	Opposition No. 91210379
	)	
v.	)	Serial No. 85/642,549
	)	
Atlas Brew Works LLC,	)	Mark: ATLAS
	)	
Applicant.	)	

**OPPOSER'S NOTICE OF RELIANCE**

Pursuant to 37 C.F.R. §2.122(e), Opposer hereby makes of record in this proceeding the following official records:

- 1) A copy of Opposer's Public Way Application to the City of Chicago Department of Business Affairs and Consumer Protection Public Way Use Unit (the "Application"), together with supporting documentation submitted as part of the Application, all dated April 27, 2012.
- 2) A copy of Opposer's Public Way Permit granted by the City of Chicago Department of Business Affairs and Consumer Protection Public Way Use Unit, dated May 3, 2012.

Copies of these documents are attached hereto as Exhibit A. Opposer intends to rely upon these documents to show that Opposer's use of the mark ATLAS BREWING COMPANY is senior to Applicant's intent-to-use filing date of June 4, 2012.

Respectfully submitted,

Date: September 3, 2014

By: 

FUKSA KHORSHID, LLC  
Attorneys for Opposer  
70 W Erie, 2<sup>nd</sup> Floor  
Chicago, IL 60654  
perry@fklawfirm.com  
Tel: (312) 266-2221

### **CERTIFICATE OF SERVICE**

I hereby certify that a true and complete copy of the foregoing Opposer's Notice of Reliance has been served on counsel to Atlas Brew Works by sending said copy on September 4, 2014, via first class certified mail and electronic mail:

Anna L. King, Esq.  
Banner & Witcoff, Ltd.  
10 S Wacker Drive  
Suite 3000  
Chicago, IL 60606

/s/ Perry Gattegno, Esq.

## EXHIBIT A

**SIDE VIEW**

## BRICK WALL

ROUTED COPY BACKED WITH RED PLEX.  
TO ILLUMINATE RED / LED

ROUTED LETTERS RED PLEX.

## BRICK WALL

**LOCATED ABOVE DOOR  
JUST EAST OF THAT DOOR**

**ALUMINUM RETAINER 3"X30"X48", SATIN BLACK**

1

1/4" CUT OUT BINTA  
PAINTED TUCSON GOLD

2'-6"

3"

**BEST NEON  
SIGN CO.**

SCALE NO SCALE & NO ATLAS2

CUSTOMER ATLAS

JOS

ADDRESS 2747 N. LINCOLN

CITY CHICAGO

STATE IL

ARMER MICHAEL

DATE 4/27/12

SALES

APPROVED

CUSTOMER

APPROVAL:

DATE

**CUSTOMER  
APPROVAL:**

DARTLE  
DARTLE

DATE 4/27/12

STATE IL.

A-2



## APPLICATION CHECKLIST (continued)

☐ Acceptance Letter

## ACCEPTANCE OF GRANT OF PRIVILEGE PERMIT TERMS

I hereby understand and accept the terms and conditions relative to the issuance of the permit, and by signing below, I acknowledge the receipt of a copy of the Municipal Code of Chicago's 10-28 and 13-20 regulations, as well as all the additional requirements promulgated herein:

I understand it shall be my duty as the permit holder, and as a condition of the permit, to:

1. Comply with all the requirements defined within Chicago's Municipal Code, the Rules and Regulations, as well as the requirements promulgated herein;
2. Upon the passage of the permit ordinance at City Council, pay the **non-refundable** applicable Grant of Privilege annual permit fee .
3. Upon the submission of the permit application the applicant shall furnish the certificate of insurance; and,
4. Resolve all Account Holds since failure to do so will prevent the processing of this permit application;
5. Install or maintain the grant of privilege **after** the issuance of the permit by the Commissioner of Business Affairs and Consumer Protection;

I hereby agree to accept the terms and conditions relative to issuance of the permit.

I agree to renew the Certificate of Insurance at least 10 days prior to expiration of the policy.

I understand that if the item or items are not constructed/maintained the permit fees will not be refunded.

I understand that failure to adhere to all conditions imposed in the permit may result in revocation of the permit.

\* SIGNATURE: \_\_\_\_\_ DATE: 4-27-12  
 PRINT NAME: Steven Soble TITLE: OWNER

Chicago Business License #  
 ACCOUNT #: \_\_\_\_\_ SITE #: \_\_\_\_\_  
 \* LEGAL NAME OF ENTITY: \_\_\_\_\_  
 \* BUSINESS NAME (DBA): \_\_\_\_\_  
 \* BUSINESS LOCATION ADDRESS: \_\_\_\_\_  
 CITY: Chicago STATE: Illinois ZIP CODE: \_\_\_\_\_  
 \* BUSINESS PHONE: \_\_\_\_\_  
 \* E-MAIL: \_\_\_\_\_ PERMIT TYPE: \_\_\_\_\_



## APPLICANT INFORMATION

\* LEGAL NAME OF ENTITY: Atlas Brewing Company  
 \* PERMIT MAILING ADDRESS:  
 CITY: Chicago STATE: IL ZIP: \_\_\_\_\_  
 CONTACT PERSON: Steve Soble TITLE: \_\_\_\_\_  
 \* PHONE: \_\_\_\_\_ FAX: \_\_\_\_\_ E-MAIL: \_\_\_\_\_

## PROPERTY OWNER INFORMATION

\* NAME: Steve Soble  
 \* ADDRESS:  
 CITY: Chicago STATE: IL ZIP: \_\_\_\_\_

## USE OF THE PUBLIC WAY

1. List the proposed or existing use(s) below, and complete the worksheet on page 3.  
 Use only one application for all public way use type.

TYPE	HOW MANY?	BUILDING ADDRESS
<u>Sign</u>	<u>2</u>	<u>*</u>

2. Please enclose one sketch of proposed use of the public way, which maps to scale the proposed use and its relationship to surrounding right-of-way. All measurements must be indicated.
3. All "No Fee" items require a \$50 application fee. Please remit with application.
4. "No Fee" items are listed in the price list on page 6.
5. The prints should also accurately depict the location of the property line and public facilities (meters, light poles, sidewalks).

## APPLICANT CERTIFICATION

I hereby certify that all statements made as part of the application, and the attachments herein, are true to the best of my knowledge and belief.

\* BY: \_\_\_\_\_ TITLE: \_\_\_\_\_  
 F.E.I.N. or SOCIAL SECURITY NUMBER: \_\_\_\_\_

## ALDERMAN'S APPROVAL

As part of this application process, you are required to notify/obtain approval from the Alderman in whose ward your proposed use of the public way is located.

\* ALDERMAN'S SIGNATURE: \_\_\_\_\_ WARD: \_\_\_\_\_  
 DATE: \_\_\_\_\_

A-7



## APPLICATION WORKSHEET

- For use by NEW APPLICANTS ONLY.
- For renewals obtain form from City Hall, 121 N. LaSalle St., Rm. 800 or call (312) 74 - GOBIZ (744-6249)

### DIMENSIONS OF PUBLIC WAY USE WORKSHEET

Use for all public way encroachments except canopies, signs (including marquees) and sidewalk cafés.

Complete the worksheet for use of the public way and indicate all applicable measurements.

Exact Street (i.e. S. State St.)	Quantity	Length of sign	Width From Build. over sidewalk	Depth of sign	Height of sign	Height below or above grade	Is this an Existing Public Way Use (Y/N)
1512 FA - 2 Walk Sign North Lincoln	1	8'	8"	8"	3'-4"	15'-4"	NO
2012 Sign North Lincoln	1	4'	5'	3"	2'-6"	11'-6"	NO

Describe in detail how the public way is to be used together with the description of location.

2 - Signs project over the public way  
See sketch: ATLAS 2

### YEAR\* BUILDING WAS CONSTRUCTED:

\* Buildings built before 1923 must provide documentation.

NOTE: Pursuant to section 2-154-030 of the Municipal Code of the City of Chicago the Corporation Counsel of the City of Chicago may require any such additional information from any applicant to achieve full disclosure relevant to the request for action by the City Council or other city agency. Pursuant to section 2-154-020 of the Municipal code of the City of Chicago any material change in the information required above must be provided by supplementing this statement at any time up to the time the City Council or any city agency takes action on the application.



## FEE STRUCTURE - Annual Fees

### FLAT FEES

Awning	\$50 for the first 25 feet + \$1 each additional foot
Canopy	\$50 for the first 25 feet + \$1 each additional foot
Balcony	\$75 each
Banner	\$75 each
Barber Pole	\$10 each
Bay Window	\$75 each
Bicycle Rack	\$0 / \$50 application fee
Bollard	\$75 each
Cable	\$50 for 1 <sup>st</sup> 25 feet + \$1 each additional linear foot
Conduit (fiber or not)	\$6 per linear foot
Clock	\$400 each
Door Swing	\$75 each
Fire Escape	\$400 each
Flag Pole	\$75 each
Light Fixture	\$75 for the first + \$5 each additional light
Light Pole	\$75 each
Manhole	\$400 each
Marquee	\$50 for the first 25 feet + \$1 each additional foot
Park Bench	\$75 each
Security Camera	\$0 / \$50 application fee
Sign	\$100 each (if less than 25 square feet)
	\$300 each (if 25 square feet and up)
Smoking Management	\$75 each (permanent)
Receptacle	\$0 / \$50 application fee (portable)
Trash Container	\$75 each
Windscreen	\$400 each
Landscaping	\$0 / \$50 application fee
Planter	\$0 / \$50 application fee
Trees	\$0 / \$50 application fee
Tree Grate	\$0 / \$50 application fee

The fees for all other structures occupying the public way are determined by a formula based on square feet, real estate value, and level (on, over, under the public way), with a minimum charge of \$400 per item.

Notwithstanding the above, the total fee for a public way use for any combination of signs less than 25 square feet, canopies, awnings, or light fixtures, at the same location, shall not exceed \$175.00 for all such public way uses.

**Exemption:** No fee shall be charged for a public way use that is on or above the public way for the following:

In the case of a residential building, as that term is defined in section 17-17-02146, constructed in or before 1922 (with proof provided with this application), a public way use that is part of the original construction and is a permanent structure of the building provided that in the case of a mixed used building, any public way use that solely is for the use or benefit of any commercial or business activity in the building shall pay the fees for the public way use. In the case of a landmark building, any part of the building which is on or over the public way, including a clock or light fixture if the clock or light fixture is part of the landmark designation. For the purposes of this section, a landmark building shall also include any building, other than a non-contributing building in a landmark district. For any public way use which is below grade level or under the public way or other public place for any building specified above shall pay the appropriate fees.

In addition, pursuant to the Municipal Code of Chicago, the permittee shall indemnify the City of Chicago and its agents and employees, and furnish proof of insurance naming the City of Chicago and its agents and employees as additional insured throughout the duration of the permit term.

**DO NOT INCLUDE ANNUAL FEE PAYMENT(S) WITH THIS APPLICATION.**



## ALDERMANIC WARD OFFICES LIST

Person Name	Ward	Ward Phone	E-mail	Ward Office	Zip	City Hall Phone
Moreno, Proco Joe	1	(773) 276-0101	ward01@cityofchicago.org	2056 N. Western Ave.	60647	(312) 744-3063
Fioretti, Bob	2	(312) 263-9273	Robert.Fioretti@cityofchicago.org	1319 S. State St., Suite A	60605	(312) 744-6836
Dowell, Pat	3	(773) 373-9273	Pat.Dowell@cityofchicago.org	5046 S. State St.	60609	(312) 744-8734
Burns, William D.	4	(773) 536-8103		435 E. 35th St., 1st Floor	60616	
Hairston, Leslie A.	5	(773) 324-5555	lhairston@cityofchicago.org	2325 E. 71st Street	60649	(312) 744-6832
Sawyer, Roderick T.	6	(773) 635-0006		463 & 1/2 E. 83rd St.	60619	
Jackson, Sandi	7	(773) 375-9180	ward07@cityofchicago.org	7123 S Yates	60649	(312) 744-6833
Harris, Michelle A.	8	(773) 874-3300	mharris@cityofchicago.org	8539 S. Cottage Grove	60619	(312) 744-3075
Beale, Anthony	9	(773) 785-1100	ward09@cityofchicago.org	34 East 112th Place	60628	(312) 744-6838
Pope, John	10	(773) 721-1999	jpope@cityofchicago.org	3522 E. 106th St.	60617	(312) 744-3078
Balcer, James	11	(773) 254-6677	jbalcer@cityofchicago.org	3659 S. Halsted St.	60609	(312) 744-6663
Cardenas, George A.	12	(773) 523-8250	ward12@cityofchicago.org	2458 W. 38th St.	60632	(312) 744-3040
Quinn, Marty	13	(773) 581-8000		6500 S. Pulaski Rd.	60629	
Burke, Edward M.	14	(773) 471-1414	eburke@cityofchicago.org	2650 W. 51st Street	60632	(312) 744-3380
Foulkes, Toni	15	(773) 863-0220	Toni.Foulkes@cityofchicago.org	3045 W. 63rd St.	60629	(312) 744-6850
Thompson, Joann	16	(773) 434-3399	JoAnn.Thompson@cityofchicago.org	5335 S. Western Blvd.	60609	(312) 744-3069
Thomas, Latasha R.	17	(773) 723-0908	lrthomas@cityofchicago.org	7811 S. Racine Ave.	60620	(312) 744-7738
Lane, Lona	18	(773) 471-1991	ward18@cityofchicago.org	8146 S. Kedzie	60652	(312) 744-6856
O'Shea, Matthew J.	19	(773) 238-8766		10400 S. Western Ave.	60643	
Cochran, Willie	20	(773) 955-5610	Willie.Cochran@cityofchicago.org	6357 S. Cottage Grove	60637	(312) 744-6840
Brookins, Jr., Howard	21	(773) 881-9300	ward21@cityofchicago.org	9612 S. Halsted St.	60628	(312) 744-4810
Munoz, Ricardo	22	(773) 762-1771	rmunoz@cityofchicago.org	2500 S. St Louis	60623	(312) 744-9491
Zalewski, Michael R.	23	(773) 582-4444	mzalewski@cityofchicago.org	6247 S. Archer Ave.	60638	(312) 744-6828
Chandler, Michael D.	24	(773) 533-2400		1158 S. Keeler St.	60624	
Solis, Daniel	25	(773) 523-4100	dsolis@cityofchicago.org	2439 S. Oakley St.	60608	(312) 744-6845
Maldonado, Roberto	26	(773) 395-0143		2434 W. Division St.	60622	(312) 744-6853
Burnett, Jr., Waller	27	(312) 432-1995	wburnett@cityofchicago.org	1463 W. Chicago Ave.	60622	(312) 744-6124
Ervin, Jason C.	28	(773) 533-0900	jason.ervin@cityofchicago.org	259 N. Pulaski Rd.	60624	(312) 744-3066
Graham, Deborah L.	29	(773) 261-4646		5755 West Division Street	60651	(312) 744-8805
Reboyas, Ariel	30	(773) 794-3095	ward30@cityofchicago.org	3348 N. Milwaukee Ave.	60641	(312) 744-3304
Suarez, Regner Ray	31	(773) 486-6488	rsuarez@cityofchicago.org	4502 W. Fullerton Ave.	60639	(312) 744-6102
Waguespack, Scott	32	(773) 248-1330	info@ward32.org	2657 N. Clybourn	60614	(312) 744-6587
Mell, Richard F.	33	(773) 478-8040	rmell@cityofchicago.org	3649 N. Kedzie Ave.	60618	(312) 744-6825
Austin, Carrie M.	34	(773) 928-6961	caustin@cityofchicago.org	507 W. 111th St.	60628	(312) 744-6820
Colón, Rey	35	(773) 365-3535	ward35@cityofchicago.org	2710 N. Sawyer Ave.	60647	(312) 744-6835
Sposato, Nicholas	36	(773) 836-0036		6934 W. Diversey	60707	
Mitts, Emma	37	(773) 745-2894	emitts@cityofchicago.org	5344 W. North Ave.	60639	(312) 744-8019
Cullerton, Timothy M.	38	(773) 545-3838		5817 W. Irving Park Rd.	60634	(312) 744-6811
Laurino, Margaret	39	(773) 736-5594	mlaurino@cityofchicago.org	4404 W. Lawrence Ave.	60630	(312) 744-7242
O'Connor, Patrick J.	40	(773) 769-1140	pjoconnor@cityofchicago.org	5850 N. Lincoln Ave.	60659	(312) 744-6858
O'Connor, Mary	41	(773) 594-8341		6107 N. Northwest Highway	60631	
Reilly, Brendan	42	(312) 642-4242	Brendan.Reilly@cityofchicago.org	325 W. Huron, Suite 510	60654	(312) 744-3062
Smith, Michele	43	(773) 348-9500	yourvoice@ward43.org	735 W. Wrightwood Ave.	60614	
Tunney, Thomas	44	(773) 525-6034	ttunney@cityofchicago.org	1057 W. Belmont Ave.	60657	(312) 744-3073
Arena, John	45	(773) 286-4545	ward45@cityofchicago.org	4754 N. Milwaukee Ave.	60630	(312) 744-6841
Cappleman, James	46	(773) 878-4646	info@james46.org	4544 N. Broadway Ave.	60640	
Pawar, Ameya	47	(773) 868-4747	info@chicago47.org	4243 N. Lincoln Ave.	60618	
Osterman, Harry	48	(773) 784-5277		5533 N. Broadway Ave.	60640	
Moore, Joe	49	(773) 338-5796	ward49@cityofchicago.org	7356 N. Greenview Ave.	60626	(312) 744-3067
Silverstein, Debra L.	50	(773) 262-1050	info@50thwardchicago.com	2949 W. Devon Ave., Suite A	60659	

Please go to <http://www.cityofchicago.org/city/en/about/council.html> for up-to-date aldermanic information.



City of Chicago | Department of Business Affairs and Consumer Protection | Public Way Use Unit  
Business Assistance Center | City Hall, Room 800 | 121 North LaSalle Street | Chicago, Illinois 60602  
[www.cityofchicago.org/bacp](http://www.cityofchicago.org/bacp) | 312.74.GOBIZ (744.6249) | 312.742.1974 (TTY)



Department of Business Affairs and Consumer Protection  
Business Assistance Center - Public Way Use Unit  
City Hall - 121 N. LaSalle Street, Room 800 • Chicago, IL 60602  
(312)-74-GOBIZ (312-744-6249) • (312) 744-1944 (TTY)  
<http://www.cityofchicago.org/bacp>

**CITY OF CHICAGO**  
**DEPARTMENT OF BUSINESS AFFAIRS AND CONSUMER PROTECTION**  
**BUSINESS ASSISTANCE CENTER - PUBLIC WAY USE UNIT**

*Printed On: 05/03/2012*

**SEVEN TEN/ATLAS**  
c/o C.C. Grant  
2747 N. LINCOLN AVE.  
CHICAGO, IL 60614

**Chicago, IL**  
**Issued: 05/03/2012**  
**Acct No. 15790 - 1**  
**Permit No. 1096638**  
**Ward: 32**

Pursuant to an Ordinance passed by the City Council of the City of Chicago on **11/02/2011**, and Printed upon page **12044** of the Journal of the Proceedings of the City Council of that date, permission and authority are hereby given and granted to **SEVEN TEN/ATLAS**.  
**(SEE ATTACHED ORDINANCE)**

THIS PERMIT IS ISSUED AND ACCEPTED upon the condition that said **sign** shall be constructed and maintained in accordance with and subject to all conditions, stipulations and requirements of the ordinances of the City of Chicago, and all orders and ordinances which may be passed by the City Council pertaining to same, and all orders of the Commissioner of Transportation.

The permit holder agrees to hold the City of Chicago harmless for any damage, relocation or replacement costs associated with damage, relocation or removal of private property caused by the City performing work in the public way.

**THIS PERMIT IS REVOCABLE** by the Commissioner of Department of Business Affairs and Consumer Protection at any time.

Department of Business Affairs and Consumer Protection, City of Chicago